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RUEAWJA/DEPT OF JUSTICE WASHDC IMMEDIATE
RHEHAAA/NATIONAL SECURITY COUNCIL WASHINGTON DC IMMEDIATE
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SUBJECT: TFH01: DECREE LIMITING CIVIL LIBERTIES

11. (U) Summary. The de facto regime issued an executive decree on September 26 limiting for a period of 45 days the freedoms of speech, association, movement, and due process. The National Telecommunications Commission executed the decree by suspending the operating licenses of a pro-Zelaya television and radio station, and seizing both stations communications equipment. The regime President of Congress, accompanied by a delegation of legislators, called on de facto regime head Roberto Micheletti on September 28 and requested annulment of the decree. Micheletti stated publicly last night that the decree was enacted because President Jose Manuel "Mel" Zelaya had called for insurrection and violence. The embassy lobbied hard against the decree. Fortunately, strong opposition in the media, in the National Congress and other sectors prompted Micheletti to reconsider and move to annul or modify the decree. The regime's initial decision to adopt the decree confirms the weak democratic credentials of Micheletti and his closest advisors. Fortunately, many Hondurans, even in the anti-Zelaya camp, understand that this decision represents a clear attack against basic constitutional freedoms. End Summary.

Decree Provisions

12. (U) The de facto regime published an executive decree in the September 26 National Register ("Gaceta") restricting for 45 days the rights set forth in Articles 69 (personal liberty), 72 (freedom of speech), 78 (freedom of association), 81 (freedom of movement), and 84 (no arrest without warrant) of the Constitution. The decree states that the Armed Forces will support, jointly or separately as required, the National Police in order to maintain public order and security. The decree prohibits freedom of movement during curfew hours except for cargo transport, ambulances, and medical personnel. The decree prohibits public gatherings not authorized by the police or military. It also prohibits publication of oral, written, or televised news which offends human dignity or public officials, violates the law or government resolutions, or violates peace and public order. The decree gives the National Telecommunications Commission, CONATEL, the power to use the National Police and Armed Forces to shut down any radio broadcaster, television channel, or cable network that does not comply with this provision.

13. (U) The decree orders the detention of persons who violate

curfews or who are suspected by the police and military of having caused damage to persons or property or who join together to plan unlawful activities or whose life is found to be in danger. The decree states that every detained person will be read his rights and each police post or precinct shall maintain a log with information regarding the identity of all persons detained as well as the reason for the detention, the time of entry to and exit from the police post, and the detainee's physical state. The decree further provides that all detained persons must be held in legally established detention centers.

14. (U) The decree orders the dislodging of all public installations occupied by demonstrators or occupied by persons carrying out activities prohibited by law.

Justification for the Decree

15. (U) The decree states that Article 62 of the Honduran Constitution provides that individual rights are circumscribed by the rights of others in the interest of the well-being of all. It notes that Article 187 of the Constitution permits the President, with the agreement of the Cabinet, to suspend the rights provided in Articles 69 (personal liberty), 71 (detention for more than 24 hours without being brought before judiciary), 72 (freedom of speech), 78 (freedom of association), 81 (freedom of movement), 84 (no arrest without warrant), 93 (no one can be held in jail if bail paid), 99 (no entry into home without warrant), and 103 (respect for private property) of the Constitution in the case of invasion of the national

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territory, serious disturbance of the peace, or epidemic or another general calamity.

16. (U) The decree says that dissident groups ideologically aligned with and encouraged by governments that do not support democracy are fostering insurrection and endangering life, property, social tranquility, and the Constitution. The decree further states that the magnitude of acts of vandalism and illegal demonstrators could impede the ability of the National Police to ensure public order if not supported by the state's other security forces.

Execution

17. (U) The National Telecommunications Commission, CONATEL, supported by the National Police and military, entered the headquarters of Channel 36 and radio station Radio Globo on September 28 to carry out a CONATEL order suspending their licenses. The security forces seized and removed their communications equipment and computers. The removal of the communications equipment goes beyond the CONATEL resolution, which merely authorized the shutting down of the two stations' transmission. There was no judicial order permitting the police and military to enter the premises of Radio Globo and Channel 36.

18. (U) The decree stated that it would be transmitted to the Secretary of the National Congress. Jose Alfredo Saavedra, who replaced de facto regime head Roberto Micheletti as President of the Congress after the coup d'etat, joined by congressional party whips, met with Micheletti and requested the suspension of the decree. According to the press, Saavedra said this action was taken to deliver the message to the Honduran people and the international community that the Congress seeks to promote dialogue rather than confrontation. The press reported that Micheletti responded that he supports seeking dialogue and peace and will consult with the Supreme Court, the Supreme Electoral Tribunal, and the presidential candidates to this end. According to the press, Micheletti said the decree will be annulled, but did not say when. He reportedly stated that the decree was enacted

because President Zelaya had called for insurrection and violence. According to the press, the Commission for Human Rights (CODEH) has announced that it will submit to the judiciary a request for stay of execution of the decree.

¶9. (U) The Embassy lobbied hard against the decree beginning Sunday afternoon. In meetings held at the Residence the Ambassador pressed the candidates and former President Carlos Flores to oppose the action by the regime to restrict civil liberties. The Ambassador also discussed the regime's actions with Chief of Defense General Vasquez and with other political leaders, including former President Ricardo Maduro. Flores' La Tribuna newspaper came out strongly against the regime's measures in their editorial page the following day describing it as the kind of measure Hugo Chavez would take. National Party candidate Pepe Lobo was also harshly critical and ordered his National Party congressional delegation to reject the decree. Embassy officers also raised the issue with numerous contacts on both sides of the political divide.

¶10. (SBU) Comment: The Micheletti regime's decision to enact this decree was done with little or no consultation and reflects the isolated position of Micheletti and his inner circle. Fortunately, the significant opposition to the decree suggests that many, even in the anti-Zelaya, reject any effort to restrict fundamental freedoms. Indeed, many in Congress who support the de facto regime, but who are not members of it, realized that this draconian decree went beyond acceptable limits for a regime that claims that the events of June 28 were carried out in order to protect and preserve Honduran democracy. The decree itself is authoritarian and not by any means justified by the current security situation.

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